

MINUTES
OF
THE UTAH RADIATION CONTROL BOARD

August 4, 2006

DEQ Building #2

Conference Room 101

168 N 1950 W

Salt Lake City, Utah 84114-4850

BOARD MEMBERS PRESENT

Kent Bradford J. Bradford, P.G., Chair
Stephen T. Nelson, Ph.D., Vice Chair
Dianne R. Nielson, Ph.D., Director of DEQ
Dane L. Finerfrock, Executive Secretary
Rod O. Julander, Ph.D.
Gregory G. Oman, D.D.S., B.S.
John W. Thomson, M.D.
Patrick D. Cone
Frank D. DeRosso, MSPH, C.I.H.
Joette E. Langianese, Commissioner
Elizabeth Goryunova
Peter A. Jenkins

BOARD MEMBERS ABSENT/EXCUSED

Joseph K. Miner, M.D., MSPH
Robert S. Pattison, B.Sc.

DRC STAFF/OTHER DEQ MEMBERS PRESENT

Gwyn Galloway, DRC Staff
Philip Griffin, DRC Staff
David Hogge, DRC Staff
Craig Jones, DRC Staff
Loren Morton, DRC Staff
Patricia Adams, DRC Staff
Fred Nelson, Attorney General's Office
Bill Craig, DRC Staff
Donna Spangler, DEQ/Office of Policy and Planning

PUBLIC

Robert Baird, URS
Dave Frydenlund, IUC (USA) Inc.
Mark Ledoux, EnergySolutions, LLC
Tye Rogers, EnergySolutions, LLC
Dan Shrum, EnergySolutions, LLC
James Holtcamp (Holland & Hart LLP)
Craig Galli (Holland & Hart LLP)
Romaine C. Marshall (Holland & Hart LLP)
Rebecca Ryon (Holland & Hart LLP)
James Lowrie (Jones Waldo Holbrook & McDonough PC)
Constance K. Lundberg (Jones Waldo Holbrook & McDonough PC)
Michael A. Zody (Parsons Behle Latimer)
Charles A. Judd (Cedar Mountain Environmental)
Gary M. Sandquist (U of U)

GREETINGS/MEETING CALLED TO ORDER

The Utah Radiation Control Board convened in DEQ Building #2, Room 101, 168 North 1950 West, Salt Lake City, Utah. Kent J. Bradford, Chair, called the meeting to order at 2:01 p.m. He welcomed the Board Members and the public. Kent J. Bradford indicated that if the public wished to address any items on the agenda, they should sign the public sign-in sheet. Those desiring to comment would be given an opportunity to address their concerns during the comment period.

I. APPROVAL OF MINUTES (Board Action Item)

a. Approval of June 2, 2006, Minutes

Kent J. Bradford asked Board Members for corrections to the minutes of June 2, 2006.

**MOTION WAS MADE BY ROD JULANDER TO APPROVE THE
MINUTES OF JUNE 2, 2006.
SECONDED BY GREGORY OMAN
JOETTE LANGIANESE ABSTAINED.**

MOTION CARRIED AND PASSED

II. RULES (Board action items)

a. Approval of Changes and 30-Day Public Comment Period for R313-22, "Specific Licenses"

Philip Griffin, Health Physicist, informed Board Members that on June 2, 2006, the Executive Secretary recommended and the Board approved the changes to R313-22 and a 30-day public comment period for R313-22. On June 5, 2006, Mr. Griffin received a telephone call from a U.S. Nuclear Regulatory Commission (NRC) staff member. The staff member had received a copy of the proposed rule changes, in advance of the Board meeting. The NRC's comments were summarized in a letter dated June 22, 2006, and the letter has been included in the Board packet.

After discussing the NRC's comments, the Executive Secretary determined that it would be best to revise the proposed rule changes, and present the revised rule changes to the Board, prior to beginning the 30-day public comment period. A copy of the revised rule changes has been included in the Board packet. The revised text is highlighted. A copy of an e-mail from Mr. Griffin to the NRC explaining the rationale behind the revised rule-changes has also been included.

Recommendation:

The Executive Secretary recommends that the Board approve the revised changes to the Utah Radiation Control Rules; direct staff to file the changes for rulemaking; and direct staff to give notice to the public of a 30-day comment period. He asked for the proposed changes to R313-22 be published in the Utah State Bulletin on September 1, 2006.

**MOTION WAS MADE BY STEPHEN NELSON TO APPROVE THE CHANGES TO R313-22, AND TO APPROVE THE EXECUTIVE SECRETARY'S RECOMMENDATIONS FOR R313-22.
MOTION WAS SECONDED BY GREGORY OMAN.**

MOTION CARRIED AND PASSED UNANIMOUSLY.

b. Approval of Changes and 30-day Public Notice for R313-19-34, "Requirements of General Applicability to Licensing of Radioactive Material"

Gwyn Galloway, Health Physicist, informed the Board that on June 2, 2006, the Executive Secretary recommended that the Board approve proposed changes to R313-19-34 and approve a 30-day public comment period. The Board granted its approval. On July 1, 2006, proposed changes to R313-19-34 were published in the Utah State Bulletin. The public comment period was from July 1, 2006, through July 31, 2006. There were no comments regarding the proposed changes.

Recommendation:

The Executive Secretary recommended the Board approve the proposed changes, and that R313-19-34 be filed as a final rule with the effective date of August 11, 2006.

**MOTION WAS MADE BY ROD JULANDER TO APPROVE THE PROPOSED CHANGES AND EFFECTIVE DATE FOR R313-19-34.
SECONDED BY ELZABETH GORYUNOVA.**

MOTION CARRIED AND PASSED UNANIMOUSLY

c. Approval for Continuing Rules R313-12, R313-14, R313-16, R313-17 and R313-18

David Hogge, Health Physicist, stated that on June 2, 2006, the Division presented to the Board sections of rules that were due to expire and sought the Board's approval to file the five-year Notice of Review and Statement of Continuation, which the Board approved. Additionally, the Board requested a schedule be developed for completing the rule-reviews and filing-changes.

In lieu of submitting a schedule for completion, the Division has expedited this process and is pleased to announce that the reviews and changes have been made to the rules.

Recommendation:

The Executive Secretary recommended that the Board approve the proposed changes to the Utah Radiation Control Rules; direct staff to file the changes for rulemaking; and direct staff to give notice to the public of a 30-day comment period. The proposed changes to the affected rules will then be published in the Utah State Bulletin on September 1, 2006.

Questions by Board Members:

Dianne Nielson asked for a clarification between the information in the packet and the presentation. David Hogge stated the difference was that R313-12 was a non-substantive change, due to definitions being removed. Dianne Nielson asked Fred Nelson for a clarification of a non-substantive change. It was decided that R313-12, R313-14, and R313-16 should go out for public comment. R313-17 had no change. R313-18 was a non-substantive change.

**MOTION MADE BY JOETTE LANGIANESE FOR RULES R313-12, R313-14, AND R313-16 TO GO OUT FOR PUBLIC COMMENT.
SECONDED BY PATRICK CONE.**

MOTION CARRIED AND PASSED UNANIMOUSLY.

III. RADIOACTIVE MATERIALS LICENSING/INSPECTION

No Items

IV. X-RAY REGISTRATION/INSPECTION

No Items

V. RADIOACTIVE WASTE DISPOSAL

- a. **Robert D. Baird, PE, CCE of URS, presented a report on “Evaluation of Closure, Post-Closure, and Perpetual Care and Maintenance for Hazardous Waste and Radioactive Waste Treatment and Disposal Facilities” (Board Information Item)**

The Legislature has directed a report be prepared on hazardous-waste management facilities (which are addressed in Chapter 2 and appendix B) and radioactive-waste management facilities (which are addressed in Chapter 3 and Appendix C).

The purpose of the draft report is to allow the Board members to review it, revise it, and submit it to the Legislative Management Committee on or before October 1, 2006, as required by UCA 19-1-307.

Several of the questions that deal with “unknown, future events and conditions” are ambiguously defined. URS, therefore, urges the Board and all reviewers to

keep these uncertainties in mind, as they review those portions of the report—specifically, where costs and probabilities of “potential future-events and conditions” are considered.

Questions by Board Members

Dianne Nielson commented that there was a parallel-process going on with the Division of Solid and Hazardous Waste. They were drafting a similar report to be submitted to the Legislature.

Patrick Cone asked if all financial assurances were for current activities and not for anything that had not been approved (Answer: correct).

Kent Bradford said the company he works for is also doing a similar study of this subject, and asked if this plan had a contingency built in? (Answer: yes, contingencies have been considered). Mr. Bradford asked if on the table c-1 on page c-7, if the design volume was equal to the total amount the facility could accept (Answer: it is true for currently licensed facilities).

Mr. Bradford noted the report states that the facility has a projected life of 20 years. He said the projected trend shows EnergySolutions will reach their capacity around 2010 or 2015--there is a question of whether there is a 20 year capacity.

Dane Finerfrock, Executive Secretary, stated that the information Mr. Baird was using came from Radiation Control's records. Mr. Baird does not have data from EnergySolutions. EnergySolutions' future, volume-projections were less, and they had not been reflected in the report.

Mr. Baird said that his financial calculations were based on the assumption the facility would be receiving funds for 20 years and interest for 20 more years. If the capacity is less than 20 years, there would be less growth and therefore less money in the fund.

Dr. John Thomson asked if EnergySolutions was the only facility in the nation able to receive waste as stated on page 49?

Mr. Baird said EnergySolutions was the only facility able to receive “appreciable amounts of waste.” Also note, the legislature requires the Board to submit a report every five years. When the next report is due, the Board will have more data.

Dane Finerfrock asked the Chair, if he would like an expansion on this portion of the report.

The Chairman said, yes. He said what is the forecast, realizing it is an estimate, for filling up the facility? Does EnergySolutions concur with it taking 20 years to fill the remaining 40%?

The Executive Secretary said that Tye Rogers from EnergySolutions would like to comment: Tye Rogers said the Perpetual Care Fund would be used 100 years after closure. The State of Utah currently has 58 million dollars to close the facility and conduct long-term monitoring for 100 years. The money is for a hypothetical-event that may occur 100 years after closure. The definition of class A waste is that it loses its danger to the individual after 100 years. Tye said EnergySolutions would be happy to participate in forecasting its volumes.

Dr. John Thomson asked if EnergySolutions had an insurance policy.

Tye Rogers: Yes

Stephen Nelson asked the EnergySolutions' representative, Tye Rogers, about the 20 year capacity.

Tye Rogers: EnergySolutions has forecasted that it has more than 20 year's capacity.

Kent Bradford asked Mr. Baird to get information from EnergySolutions, and submit it to the Board by the next Board meeting.

Mr. Baird said if the insurance policy was not adequate to cover needs for 100 years, the Perpetual Care Fund could be used.

Stephen Nelson disclosed that he may still be "on the books" as a temporary employee of URS. He said he has not been employed by URS for 6 to 8 years.

Kent Bradford stated that the Board comments would be put into the report. He said the report could be discussed, revised, and approved at the next board meeting. Kent Bradford said that he would prefer that the report state that it was prepared for and not by the two boards.

Charles Judd, representing Cedar Mountain Environmental, said there were three numbers that the Board needed to be concerned with:

1. Amount of waste that has come to the site. (about 7 million)
2. Approved capacity (11.2 million)
3. How much of the space has been taken up

Normally, 40% is taken up with clean fill; consequently, a number that is about 40% higher than 7 million will indicate how much capacity has been used already. It is doubtful, there is as much capacity left as has been stated today.

Patrick Cone said he believed the report was well done, despite his concern about the numbers.

Mr. Baird said that Mr. Judd had a valid concern, and he would check on this concern.

b. Request for Agency Action: Cedar Mountain Environmental, Inc. (Board action item)

See attached transcription for this section. V. b. continues as follows:

STEPHEN NELSON MADE A MOTION FOR A BRIEF REPORT TO BE PREPARED FOR THE BOARD BY THE DIVISION THAT OUTLINES WHAT STATUTORY LIMITATIONS, IF ANY, ARE IN PLACE FOR ENERGYSOLUTIONS AND WHETHER THERE HAVE BEEN ANY VIOLATIONS.

JOHN THOMSON SECONDED.

There was discussion.

STEPHEN NELSON MODIFIED HIS MOTION TO REQUEST A REPORT ON WHAT THE STATUTE PERMITS, WHAT HAS BEEN APPROVED TO BE RECEIVED, WHAT HAS BEEN RECEIVED, AND HOW THEY COMPARE.

MOTION PASSED UNANIMOUSLY.

A timeline was discussed. The October Board Meeting was set for the report to be due.

c. Update: Heal-UT Petition report presented by Fred Nelson

There was an appeal by Heal-UT regarding a license amendment on the geographic boundaries of EnergySolutions. Under State Law, it will be appealed to the Utah Court of Appeals. The Supreme Court has taken the case and will be reviewing the case. Oral argument will probably be late fall. The Board asked if it would be possible for members to attend. Fred Nelson said, yes, he would let the Board know when it was scheduled.

VI. URANIUM MILL TAILINGS UPDATE (Board information item)

a. Request for Agency action: Glen Canyon Group, Sierra Club

In the Board packet there is a "Notification of Further Proceedings" that Fred Nelson is presenting to the Board for approval today. The Executive secretary, IUC, and the Glenn Canyon Group of the Sierra Club have all agreed with the language of the "Notification of Further Proceedings". All the parties have agreed to the schedule that is outlined in the document. Mr. Nelson requested

the Board's approval of the schedule. It will require the "issue of standing" be considered at the next Board Meeting.

**STEPHEN NELSON MADE A MOTION TO ADOPT THE
"NOTIFICATION OF FURTHER PROCEEDINGS" WITH A CHANGE
TO THE DATE OF THE BOARD MEETING TO SEPTEMBER 8, 2006.
ROD JULANDER SECONDED.**

MOTION CARRIED AND PASSED UNANIMOUSLY

VII. OTHER DIVISION ISSUES

No Items

VIII. PUBLIC COMMENT

No Items

IX. OTHER ISSUES

No Items

- a. Bill Craig, DEQ/DRC Staff, explained the new audio system to the Board and furnished them with a handout. Dianne Nielson thanked Bill for all the work he had done on the project.
- b. Dane Finerfrock, Executive Secretary, introduced the new board members Peter A. Jenkins and Elizabeth Goryunova. They were welcomed to the Board.
- c. Discussion on the date of Board Meeting: the Board discussed having the next meeting on September 8, 2006, because of the holiday weekend.

**STEPHEN NELSON MOVED THAT THE NEXT BOARD MEETING BE HELD
ON SEPTEMBER 8, 2006.
ROD JULANDER SECONDED THE MOTION**

MOTION CARRIED AND PASSED

**Next Scheduled Board Meeting: September 8, 2006, DEQ Bldg. #2, Conference
Room 101, 168 N 1950 West, Salt Lake City, Utah**

**MOTION WAS MADE BY STEPHEN NELSON TO ADJOURN THE BOARD
MEETING
SECONDED BY JOETTE LANGIANESE.**

MOTION CARRIED AND PASSED UNANIMOUSLY

THE BOARD MEETING ADJOURNED AT 4:33 P.M.